

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 9**

STJEANCAP, LLC	§	
Plaintiff Below,	§	
Appellant	§	
	§	
VS	§	C.A. No. JP9-22-000592
	§	
	§	
CASSANDRA D. HILL	§	
Defendant Below,	§	
Appellee		

TRIAL DE NOVO

Submitted: May 16, 2023

Decided: June 8, 2023

APPEARANCES:

Stjeancap LLC, Plaintiff, appeared represented by attorney Jillian Pratt, Esquire
Cassandra Hill, Defendant, appeared represented by attorney Elizabeth Rowe, Esquire

Sean McCormick, Deputy Chief Magistrate
Peter Burcat, Justice of the Peace
Nina Bawa, Justice of the Peace

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6CF14A3J (3/1/19)

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 9**

CIVIL ACTION NO: JP9-22-000592

STJEANCAP II LLC VS CASSANDRA HILL

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

Procedural Background

On November 17, 2022, Plaintiff/Appellant STJEANCAP LLC, by and through its *Form 50* agent, Tracey Weems, filed Civil Action No. JP09-22-000592 in Justice of the Peace Court 9. Plaintiff/Appellant alleged Defendant/Appellee CASSANDRA HILL had not paid rent for a rental property she occupied. Plaintiff/Appellant sought a monetary recovery and possession of the rental property. On March 20, 2023, the Court set a trial date, via *Zoom*, for April 17, 2023. On April 13, 2023, Elizabeth C. Rowe, Esquire, entered her appearance on behalf of Defendant/Appellee HILL. On April 16, 2023, Jillian M. Pratt, Esquire, entered her appearance on behalf of Plaintiff/Appellant. On April 17, 2023, Ms. Pratt and Ms. Rowe appeared for trial via *Zoom* with their respective clients. Prior to the commencement of trial, Ms. Rowe made a Motion to Dismiss due to a deficiency in Plaintiff's Complaint pursuant to 25 *Del.C.* §5707. Specifically, Ms. Rowe argued Plaintiff's Complaint failed to properly name the owner/landlord for the property at issue. Ms. Pratt opposed the Motion. Subsequent to hearing from counsel, the Court entered an Order dismissing Plaintiff's Complaint without prejudice.

On April 25, 2023, Ms. Pratt filed a Request for *Trial de Novo*. The Request for *Trial de Novo* was approved, and a *Trial de Novo* was scheduled for May 16, 2023. On May 2, 2023, Ms. Rowe filed a Counterclaim via a *Bill of Particulars* alleging a defective garage door opener deprived Ms. Hill "of a substantial part of her bargain." On May 3, 2023, Ms. Pratt filed a *Bill of Particulars* "to clear confusion about who is the correct 'landlord' and therefore Plaintiff(s) in this action." Ms. Pratt sought leave to amend the Complaint "to add St. Jeancap, LLC d/b/a The Reserve at Westown, St. Jeancap II, LLC d/b/a The Reserve at Westown, The Reserve at Westown, and Capano Management Co. as Plaintiffs in this matter." Additionally, Plaintiff sought to add an additional claim for possession due to alleged lease violations. Ms. Pratt referenced several Seven (7) Day Notices sent to Ms. Hill and a Notice of Termination dated May 3, 2023.

On May 16, 2023, a three-judge panel consisting of Deputy Chief Magistrate Sean McCormick, Justice of the Peace Nina Bawa, and Justice of the Peace Peter Burecat convened for the *Trial de Novo*. Plaintiff/Appellant STJEANCAP LLC appeared through its counsel Ms. Pratt via *Zoom*. Defendant/Appellee CASSANDRA HILL appeared with her counsel Ms. Rowe via *Zoom*.

Facts

Prior to the swearing of witnesses, the Panel engaged in a colloquy with the Parties. Ms. Rowe renewed her trial Motion, requesting Plaintiff/Appellant's Appeal be dismissed based upon the same arguments made pre-trial below. Ms. Rowe argued Plaintiff/Appellant is not a registered entity in the State of Delaware. Ms. Rowe further objected to Plaintiff's *Bill of Particulars* filed on May 3, 2023 as

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not being timely filed. Ms. Pratt opposed the Motion and argued the *Landlord-Tenant Code*'s definition of a "landlord" is very broad and Defendant/Appellee certainly knew the identity of her landlord. Ms. Rowe responded by arguing her client did not know who "STJEANCAP LLC" was as she paid her rent to "The Reserve at Westtown." Ms. Rowe further argued STJEANCAP LLC had not filed a *Form 50* in this matter. As to Ms. Rowe's contention that no *Form 50* had been filed, the Panel found that argument to be without merit as Plaintiff/Appellant was represented by legal counsel, Ms. Pratt.

Findings

It was undisputed Defendant/Appellee was a tenant at a rental property located at 1218 Westtown Way, Middletown, Delaware.

The first issue to be addressed is Plaintiff's filing of a *Bill of Particulars* on May 3, 2023 seeking to amend the Complaint and add an additional cause of action to the appeal in this matter. 25 *Del.C.* §5717 *Stay of proceedings on appeal*, subsection (b) states:

(b) An appeal taken pursuant to subsection (a) of this section may also include claims and counter-claims not raised in the initial proceeding; provided, that within 5 days of the filing of the appeal, the claimant also files a bill of particulars identifying any new issues which claimant intends to raise at the hearing which were not raised in the initial proceeding.

The Panel has taken Judicial Notice that Plaintiff filed her appeal on April 25, 2023. 25 *Del.C.* §5112 *Time Computation*, states in pertinent part:

*In computing any period of time prescribed or allowed by order of the Court or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included unless specifically included by statute, order or rule. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. **When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation.*** (emphasis added)

Rule 6 Time (a) Computation, of the Rules Governing Civil Practice in the Justice of the Peace Court of the State of Delaware, mirrors 25 *Del.C.* §5112 and, states in pertinent part:

*In computing any period of time prescribed or allowed by these Rules by order of Court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included unless specifically included by statute, order or rule. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. **When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturday, Sundays and legal holidays shall be excluded in the computation. As used in this rule, "legal holidays" shall be those days provided by statute or as designated by the Governor of the State of Delaware.*** (emphasis added)

Five (5) days after April 25, 2023, not including weekends and holidays, would be May 2, 2023. Ms. Pratt argued the five (5) days would not start running until the appeal was accepted by the Court. A review of the Court's Docket reflects the request for a *Trial de Novo* was approved on April 26, 2023. Ms. Pratt stated her belief was that April 26th and not April 25th would be the controlling date for the

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counting of the five (5) days to timely file a *Bill of Particulars*. The Panel finds there is no ambiguity in the language of 25 *Del.C.* §5717(b). The statute very specifically states “*within 5 days of the **filing** of the appeal*” (emphasis added). Therefore, Plaintiff’s submission on May 3, 2023 was not timely filed and Plaintiff’s request to amend the Complaint to add additional plaintiffs and an additional cause of action is Denied.

Ms. Rowe renewed her Motion to Dismiss arguing STJEAN CAP had no standing to bring the Landlord-Tenant Complaint against Defendant/Appellee/Tenant CASSANDRA HILL. Ms. Rowe stated the notices sent by the Court referenced “STJEAN CAP II, LLC.” A review of the Complaint reflects the Plaintiff is “STJEAN CAP, LLC.” Accordingly, Ms. Rowe argued she does not know the correct identity of Plaintiff/Appellant herein. The Panel has taken Judicial Notice of the Complaint that was filed and noted Plaintiff was identified as “Stjeancap, LLC The Reserve at Westown.” 25 *Del.C.* §5703 states a Landlord-Tenant action may be initiated by “(1) The landlord; (2) The Owner; (3) The tenant who has been wrongfully put out or kept out; (4) The next tenant of the premises, whose term has begun; or (5) The tenant.” Pursuant to 25 *Del.C.* §5141 (15):

“Landlord” shall mean:

- a. The owner, lessor or sublessor of the rental unit or the property of which it is a part and, in addition, shall mean any person authorized to exercise any aspect of the management of the premises, including any person who, directly or indirectly, receives rents or any part thereof other than as a bona fide purchaser and who has no obligation to deliver the whole of such receipts to another person; or*
- b. Any person held out by any landlord as the appropriate party to accept performance, whether such person is a landlord or not; or*
- c. Any person with whom the tenant normally deals as a landlord; or*
- d. Any person to whom the person specified in paragraphs (17)b. and c. of this section is directly or ultimately responsible.*

A landlord may bring an action against a tenant for Summary Possession of the demised premises if the tenant “has wrongfully failed to pay the agreed rent.” 25 *Del.C.* §5702 (2). When an action is brought pursuant to 25 *Del.C.* 5702, the Complaint must have the following five (5) contents:

The complaint shall:

- (1) State the interest of the plaintiff in the rental unit from which removal is sought;*
- (2) State the defendant's interest in the rental unit and defendant's relationship to the petitioner with regard thereto;*
- (3) Describe the rental unit from which removal is sought;*
- (4) State the facts upon which the proceeding is based and attach a copy of any written notice of the basis of the claim as an exhibit to the complaint; and*
- (5) State the relief sought which may include a judgment for rent due if the notice of complaint contains a conspicuous notice that such demand has been made.*

25 *Del.C.* §5707. This Panel is very cognizant of the wording of 25 *Del.C.* §5707, and in particular the first three (3) words: “The complaint **shall** . . .” (emphasis added). This is not something a Judge can overlook or waive. As Ms. Rowe has argued Plaintiff/Appellant lacks standing to bring the underlying Landlord-Tenant action, the Panel must look to the Complaint filed by Plaintiff/Appellant to determine if the Complaint stated “the interest of the plaintiff in the rental unit from which removal” was sought. Plaintiff/Appellant stated in its *Concise Statement of Facts*”

Defendant(s) has failed to pay rent outlined in the rental agreement for the month of September 2022. Plaintiff notified the defendant(s) with a five (5) day notice (copy attached) via certificate of mailing. Plaintiff requests judgment for delinquent rent, possession, rent up to possession, post judgment interest, late charges, court costs, and per diem \$60.66.

The Complaint does not set forth Plaintiff/Appellant's interest in the rental property, and in fact does not describe/identify the rental unit from which removal was sought. 25 Del.C. §5707 (3). As part of the *Concise Statement of Facts* Plaintiff/Appellant mentioned a "five (5) day notice." The Panel has taken Judicial Notice of the five day notice submitted as evidence in this matter. The five day notice does not have an identifying caption, but is signed "Sincerely, The Reserve at Westown." The Panel took further Judicial Notice of the Rental Agreement submitted as evidence by Plaintiff/Appellant. The Rental Agreement is dated August 17, 2020. The "Resident Agent" is identified as "The Reserve at Westown." The landlord is identified as "Capano Management Co for St Jeancap, LLC." An additional exhibit submitted by Plaintiff/Appellant was a "Lease Renewal Modification Offer." The Panel has taken Judicial Notice that this document is captioned "The Reserve at Westown" and mentions Ms. Hill's "residency at The Reserve at Westown" and is signed "Warm Regards, The Reserve at Westown." Ms. Pratt argued Ms. Hill knew who she was paying her rent to and therefore she knew the identity of her landlord. Ms. Rowe countered by arguing Ms. Hill knew who she paid, but the entity "The Reserve at Westown" was not a registered legal entity in the State of Delaware, and therefore did not have standing to be listed as a named Plaintiff. As previously mentioned, the wording in 25 Del C. 5702 is not discretionary. As a matter of law, when a complaint is insufficient, the case cannot proceed. *Urban v. Justice of Peace Court No. 13*, 1992 WL 423846 (Del. Super. 1992).

The Complaint as filed by Plaintiff/Appellant does not make clear the relationship between the parties. It does not identify who is an owner, manager, or landlord, and in fact, was very generic in its form. Essentially, the Complaint was boilerplate. Pursuant to Delaware Supreme Court Rule 57, *Artificial entity and public body pro se representation in civil actions in the Courts of the Justices of the Peace*:

(b) Permitted representation. —Civil actions before Justice of the Peace Courts may be prosecuted and/or defended by an officer or employee of an artificial entity or public body, who need not be an attorney duly licensed to practice law in this State, but who has been authorized by the artificial entity or public body to represent it in a Justice of the Peace Court civil action in compliance with paragraph (c) of this Rule.

An artificial entity is defined as:

. . . any corporation incorporated in Delaware or any corporation doing business in Delaware pursuant to the provisions of 8 Del. C. § 371 or the exceptions thereto contained in 8 Del. C. § 373, any limited liability company defined under the provisions of 6 Del. C. § 18-101, any partnership or limited partnership as defined in 6 Del. C. § 15-101(11); any trust as defined in 12 Del. C. § 3501 et seq., any estate for which an executor or administrator can act pursuant to 12 Del. C. § 1501 et seq., or any other entity falling within 6 Del. C. Chapter 31, including persons, firms and unincorporated associations transacting business in Delaware that have or should have filed a certificate with the Prothonotary's office designating a trade name. Supr. Ct. Civ. R. 57.

The underlying Complaint filed on November 17, 2022 was filed by Tracey Weems. Ms. Weems included with the initial filing a *Form 50* for the named business entity "StJeancap, LLC. Yet, Ms. Weems used her efiler number for STJEANCAP II, LLC as the filer number, which explains the Docket

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having the STJEANCAP II, LLC caption. An efiler number for STJEAN CAP, LLC, The Reserve at Westown, or STJEANCAP, LLC dba The Reserve at Westown was not used by Ms. Weems. The use of the efiler number for STJEANCAP II, LLC injected the name of a whole different party then what was on the Lease Agreement, receiver of rent payments, and/or named on the Complaint filed herein. On April 13, 2023, Ms. Weems submitted as a trial exhibit a *Form 50* for the named business entity "Stjeancap, LLC dba The Reserve at Westown." Ms. Pratt did not supply the Court/Panel with any evidence of a legal filing in Delaware for either The Reserve at Westown, or Stjeancap, LLC dba The Reserve at Westown. Although Ms. Hill may have known the identity of her landlord, the intended purpose of the Complaint to provide a clear understanding to a defendant of the "Who, What, When, Where and How" was not met in this case.

Order

Based upon all of the foregoing reasons, the Panel Grants Defendant/Appellee's Motion to Dismiss for lack of specificity.

This matter is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED 08th day of June, 2023

/s/ Sean McCormick

SEAN MCCORMICK

DEPUTY CHIEF MAGISTRATE

ON BEHALF OF THREE-JUDGE PANEL



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).